

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10607 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VIJAYSINGH D PARMAR

Versus

COMPETENT AUTHORITY & ADDL. COLLECTOR

Appearance:

MR MC BHATT for Petitioner

MR. A.G.URAIZEE,ASSITANT GOVERNMENT PLEADER for
the Respondents.

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 27/03/96

ORAL JUDGEMENT

Whether rejection of an application under Section 21(1) of the Urban Land (Ceiling and Regulation) Act,1976 ('ULC Act' for short) on the sole ground that the party has not produced evidence to show as to when the application under Section 20 of the ULC Act was made, is legal and valid,is the central theme of the present petition.

The petitioner is the owner and occupier of the lands bearing survey numbers 483,.403 and 475 situated in the sim of Gotri of district Vadodara. These agricultural lands totally admeasured about 4094 sq.mts which are hereinafter referred to as 'the disputed lands'. The petitioner had obtained exemption under Section 20 of the ULC Act to carry out agricultural operations in the disputed lands. The authority had granted exemption to utilise the agricultural lands for agricultural purpose by an order dated 31.5.1979 under Section 20 of the ULC Act. The said permission for exemption came to be cancelled by the respondent authority by passing an order dated 9.11.1990.

The petitioner later on submitted an application under Section 21 of the ULC Act to put up a scheme for accommodation for weaker section of the society on 4.3.1991. This application under Section 21 was submitted within a period of 1139 days as required under proviso (b) to Rule 11 of the Urban Land (Ceiling and Regulation) Rules,1976 ('ULC Rules' for short). Respondent No.1- competent authority and Additional Collector (ULC) Vadodara rejected the said application by passing an order dated 19./9.1991 holding that the petitioner had failed to prove as to on which date, the application for exemption of agricultural property under Section 20 of the ULC Act was made. Being aggrieved by the said order, the petitioner carried the matter before the Urban Land Tribunal, Ahmedabad in appeal No. 8 of 1991, under Section 33 of the ULC Act which came to be rejected. Hence, this petition under Articles 226 and 227 of the Constitution.

A mere look at the impugned orders would show that rejection of an application under Section 21(1) of the ULC Act is unjust, perverse and illegal requiring interference of this court exercising extraordinary, discretionary and equitable writ jurisdiction for the following reasons:

Nothing has been shown in the impugned orders as to why and how proof of date of submission of the application under Section 20 of the ULC Act was necessary and/or relevant for the purpose of adjudicating upon merits of the application under Section 21 of the ULC Act. Both the authorities have mechanically held that in absence of proof of date of submission of the application under Section 20 of the ULC Act, the application for exemption under Section 21 is required to be rejected. There is neither logic nor legality in such an approach.

What is required to be shown is compliance of provisions of proviso (b) to Rule 11 of the Rules. It would be profitable at this stage to refer to the said provisions:

"Every declaration under sub-section (1) of Section 21 by a person holding vacant land shall be made within one thousand, one hundred and thirty nine days from the commencement of the Act and shall be in form :

Provided that-

x x x x x x x

x x x x x x x

(b) where any vacant land held by any person and exempted by clause (iv) of sub-section (1) of Section 19 or sub-section (1) of Section 20 ceases to be so exempted and as a consequence thereof the extent of such land, together with the extent of the vacant land, if any, already held by him, exceeds in the aggregate the ceiling limit, then the time within which such person may file the declaration referred to under sub-section (1) of Section 21 shall be one thousand one hundred and thirty nine days from the date on which such vacant land ceases to be so exempted."

It could very well be seen from the aforesaid provisions that in the aforesaid land held by the land-holder and exempted by the competent authority under Section 19(1)(iv) or under Section 20(1) ceases to be so exempted and as a consequence thereof, the extent of such land together with extent of the vacant land if any, already held by him, exceeds in the aggregate the ceiling limit, then the time within which such land holder is required to file a declaration referred to under Section 21(1) is prescribed. It is 1139 days from the date on which such vacant land ceases to be so exempted. There is no dispute about the fact that application under Section 21 came to be filed within the aforesaid period of limitation by the petitioner. It may be recalled that exemption came to be withdrawn or cancelled under Section 20 by an order dated 9.11.1990 and the application came to be filed for exemption under Section 21 on 4.3.1991. Thus, declaration was made in form No.V on 4.3.1991. The exemption under Section 20 ceased on 9.11.1990. Fresh application under Section 21 was within a period of 1139 days. Section 20 of the ULC Act does not prescribe any time limit for making an application. It is neither required nor expedient to prove the date on which

application under Section 20 was submitted to the land-holder. No doubt, application for exemption under Section 20 came to be made before 31.3.1979. However, the authority in the impugned order observed that no proof was furnished in support thereof. In fact, it is absolutely not necessary to prove what was the date of submission of application under Section 20. It has no relevance. It has no connection or it has no bearing on the merits of the application under Section 21 of the ULC Act. What is relevant and necessary is the date of cessation and declaration in prescribed form within a period of 1139 days under Rule 11. There is no dispute about the fact that application under Section 21 was submitted within the prescribed time under Rule 11.

In view of the aforesaid facts and circumstances, this court has no hesitation in finding that the impugned orders passed by the respondents are unjust, perverse and illegal. Therefore, they are quashed. Consequently, this petition is partly allowed and the matter is remitted back to the competent authority for the purpose of adjudicating upon the application of the petitioner under Section 21 of ULC Act afresh or "denovo" treating it within the period of limitation in accordance with law, as early as possible. Rule is made absolute to the aforesaid extent, with no order as to costs.
